

UNITED STATES DISTRICT COURT :
FOR THE WESTERN DISTRICT OF NEW YORK :
----- :
NELSON NEGRON, :
: Plaintiff, :
: :
-against- :
: :
SGT 2000, INC., FRANZ JEAN and BERNARD LENARD; :
: :
: Defendants.
----- x

INDEX OF ATTACHMENTS TO NOTICE OF REMOVAL

Defendants, SGT 2000, INC., FRANZ JEAN and BERNARD LENARD, by and through their attorneys, WILSON, ELSER, MOSKOWITZ, EDELMAN & DICKER LLP, submits this Index to the Notice of Removal identifying all documents contained therein, in accordance with local rule 81(a)(3).

1. Exhibit "A" – Copy of the Summons & Complaint, filed with Niagara County Clerk's Office on June 4, 2021;
2. Exhibit "B" - Affidavit of Service on SGT 200, Inc.;
3. Exhibit "C" - Affidavit of Service on Franz Jean;
4. Exhibit "D" - Affidavit of Service on Bernard Loren;
5. Exhibit "E" - Affidavit of Regularity;
6. Exhibit "F" – Letters to Defendants;
7. Exhibit "G" – Signed Return Receipts;
8. Exhibit "H" – Answer to Complaint;
9. Exhibit "I" – Supplemental Demand; and
10. Exhibit "K" – Certificate of Service of Answer and Supplement Demand.

Dated: Albany, New York
April 22, 2022

Yours, etc.,

WILSON, ELSEER, MOSKOWITZ,
EDELMAN & DICKER LLP

By: *Marc J. Kaim*

Marc J. Kaim, Esq.

Bar Roll No.: 516013

Attorneys for Defendants

*SGT 2000, Inc., Franz Jean, and
Bernard Loren*

200 Great Oaks, Suite 228

Albany, New York 12203

(518) 449-8893

EXHIBIT A

STATE OF NEW YORK
SUPREME COURT : : COUNTY OF NIAGARA

NELSON NEGRON,

Plaintiff,

SUMMONS

Index No.:

-vs-

SGT 2000, INC.
354 Chemin Yamaska
St.-Germain-de Grantham, QUEBEC J0C-1K0
CANADA,

FRANZ JEAN
1-3443 Innes Road
Ottawa, ONTARIO K1C-1T1
CANADA,

BERNARD LOREN
354 Chemin Yamaska
St.-Germain-de Grantham, QUEBEC J0C-1K0
CANADA,

Defendants.

TO THE ABOVE NAMED DEFENDANTS:

YOUR ARE HEREBY SUMMONED AND REQUIRED to serve upon the plaintiff's attorney, at the address stated below, a written Answer to the attached Complaint.

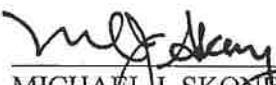
If this Summons is served upon you within the State of New York by personal service you must respond within TWENTY (20) days after service, not counting the day of service. If this Summons is not personally delivered to you within the State of New York, you must respond within THIRTY (30) days after service is completed, as provided by law.

If you do not respond to the attached Complaint within the applicable time limitation stated above, a Judgment will be entered against you, by default, for relief demanded in the Complaint, without further notice to you.

This action is brought in the County of Niagara on the basis of plaintiff's residence.

DATED: June 4, 2021
Niagara Falls, NY

Yours, etc.



MICHAEL J. SKONEY, ESQ.
VIOLA, CUMMINGS & LINDSAY, LLP
Attorneys for Plaintiff
NELSON NEGRON
770 Main Street
Niagara Falls, NY 14301
(716) 285-9555
mskoney@vclniagara.com

STATE OF NEW YORK
SUPREME COURT :: COUNTY OF NIAGARA

NELSON NEGRON,

COMPLAINT

Plaintiff,

Index No.:

-vs-

SGT 2000, INC.
354 Chemin Yamaska
Saint-Germain-de Grantham, QUEBEC J0C-1K0
CANADA,

FRANZ JEAN
1-3443 Innes Road
Ottawa, ONTARIO K1C-1T1
CANADA,

BERNARD LOREN
354 Chemin Yamaska
Saint-Germain-de Grantham, QUEBEC J0C-1K0
CANADA,

Defendants.

Plaintiff, by his attorneys, Viola, Cummings & Lindsay, LLP for his cause of action against defendants state:

FIRST: Plaintiff is a resident of the City of Niagara Falls, County of Niagara and State of New York.

SECOND: Upon information and belief, defendant SGT 2000, Inc. (SGT) is a corporation organized under the laws of the Province of Quebec with a principal place to transact business at 354 Chemin Yamaska, Saint-Germain-de-Grantham, Quebec, Canada.

THIRD: Upon information and belief, defendant Franz Jean ("Jean") is a resident of the Province of Ontario, with a last known address of 1-3443 Innes Road, Ottawa, Ontario K1C-1T1

Canada,

FOURTH: Upon information and belief, defendant Bernard Loren ("Loren") is a resident of Quebec, Canada with a last known business address as 354 Chemin Yamaska, Saint-Germain-de Grantham, Quebec J0C-1K0.

FIFTH: That at all times mentioned, defendant SGT was the owner of a certain 2017 Freightliner Cascadia semi-trailer truck ("FREIGHTLINER") with Quebec license plates GHLJE-7248.

SIXTH: Upon information and belief, at all times mentioned, defendants Jean and Loren were employees, agents and/or servants of defendant SGT.

SEVENTH: Upon information and belief, at all times mentioned, defendants Jean and Loren were acting in the scope of their employment by defendant SGT.

EIGHTH: That at all times mentioned, plaintiff was an employed person for hire, employed by Tulip Richardson Manufacturing, 3123 Highland Avenue, Niagara Falls, NY.

NINTH: That on or about May 9, 2019, defendant SGT's 2017 FREIGHTLINER was located at 3123 Highland Avenue, Niagara Falls, NY.

TENTH: That at all times mentioned, defendant Jean was the driver and operator of the 2017 FREIGHTLINER at 3123 Highland Avenue, Niagara Falls, NY.

ELEVENTH: That at all times mentioned, defendant Loren was the driver and operator of the 2017 FREIGHTLINER at 3123 Highland Avenue, Niagara Falls, NY.

TWELTFTH: That at all times mentioned, the defendants were careless, reckless and negligent in the ownership, control and operation of the 2017 FREIGHTLINER at 3123 Highland Avenue, Niagara Falls, NY.

THIRTEENTH: That at all times mentioned, plaintiff was operating a certain Bobcat motorized equipment in connection with his employment by Tulip Richardson Manufacturing at 3123 Highland Avenue, Niagara Falls, NY.

FOURTEENTH: That the defendants were carless, reckless and negligent, in their failing to engage the brakes on the 2017 FREIGHTLINER at 3123 Highland Avenue Niagara Falls, NY.

FIFTEENTH: That because of defendants' negligence, plaintiff was injured and sustained personal injuries as a result of the defendants' negligence; plaintiff exercised due care.

SIXTEENTH: Because of defendants' negligence, plaintiff sustained personal injuries and has been damaged in an amount that exceeds the jurisdictional limits of all lower courts.

SEVENTEENTH: That the limited liability provisions of CPLR Article 16 are not applicable.

WHEREFORE, plaintiff demands judgment against defendants n an amount that exceeds the jurisdictional limits of all lower courts and for such other, further and different relief as the Court deems just and proper.

Dated: Niagara Falls, NY
June 4, 2021

Yours, etc.



MICHAEL J. SKONEY, ESQ.
VIOLA, CUMMINGS & LINDSAY, LLP
Attorneys for Plaintiff
NELSON NEGRON
770 Main Street
Niagara Falls, NY 14301
(716) 285-9555
mskoney@vclniagara.com

EXHIBIT B

STATE OF NEW YORK
SUPREME COURT :: COUNTY OF NIAGARA

NELSON NEGRON,

Plaintiff,

-against-

SGT 2000, INC., FRANZ JEAN and BERNARD
LOREN,

Defendants.

AFFIDAVIT OF SERVICE

Index No. E175141/2021

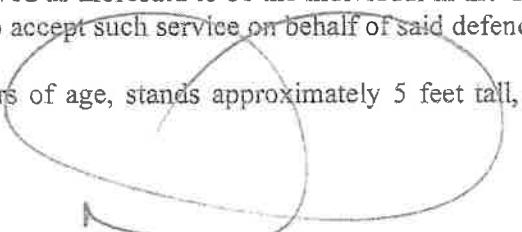
STATE OF NEW YORK
COUNTY OF ALBANY SS:

Denise Dooley being duly sworn, deposes and says that she is over the age of eighteen years, is a resident of New York State and is not a party to this action.

That on the 14th day of September, 2021, at approximately the time of 12:00 p.m., at the office of Secretary of State, of the State of New York, in the City of Albany, New York, deponent served the Summons, Complaint and Notice of Electronic Filing, upon **SGT 2000, INC.**, by delivering to and leaving with Sue Zouky an agent of the Secretary of State, of the State of New York, one (1) copy thereof and at the time of making such service deponent paid said Secretary of State a fee of ten dollars. That said service was made pursuant to Section 253 of the Motor Vehicle and Traffic Law.

Deponent further says that she knew the person so served as aforesaid to be the individual in the Office of the Secretary of State of New York, duly authorized to accept such service on behalf of said defendant.

Sue Zouky is a white female, approximately 60 years of age, stands approximately 5 feet tall, weighs approximately 110 pounds with brown hair.


Denise Dooley

Sworn to before me
this 14th day of September, 2021.

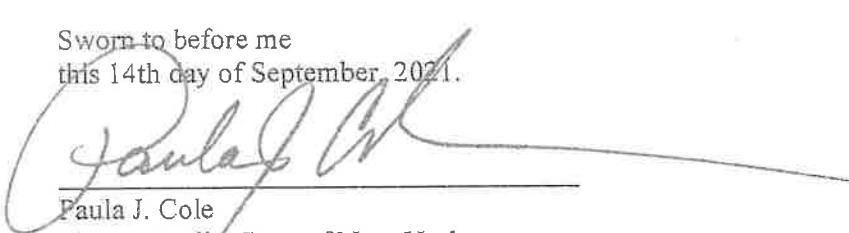

Paula J. Cole
Notary Public, State of New York
Qualified in Albany County
No. 01CO9042570
Commission Expires Sept. 30, 2022

EXHIBIT C

STATE OF NEW YORK
SUPREME COURT :: COUNTY OF NIAGARA

NELSON NEGRON,

Plaintiff,

-against-

SGT 2000, INC., FRANZ JEAN and BERNARD
LOREN,

Defendants.

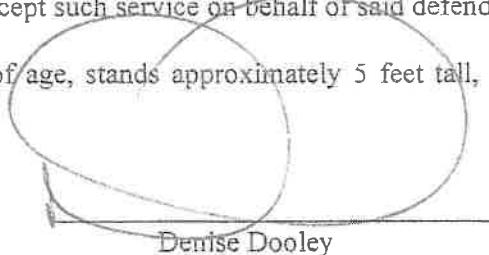
AFFIDAVIT OF SERVICE
Index No. E175141/2021STATE OF NEW YORK
COUNTY OF ALBANY SS:

Denise Dooley being duly sworn, deposes and says that she is over the age of eighteen years, is a resident of New York State and is not a party to this action.

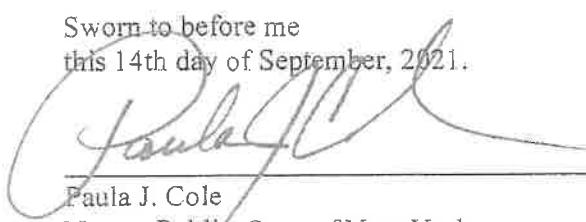
That on the 14th day of September, 2021, at approximately the time of 12:00 p.m., at the office of Secretary of State, of the State of New York, in the City of Albany, New York, deponent served the Summons, Complaint and Notice of Electronic Filing, upon **FRANZ JEAN**, by delivering to and leaving with Sue Zouky an agent of the Secretary of State, of the State of New York, one (1) copy thereof and at the time of making such service deponent paid said Secretary of State a fee of ten dollars. That said service was made pursuant to Section 253 of the Motor Vehicle and Traffic Law.

Deponent further says that she knew the person so served as aforesaid to be the individual in the Office of the Secretary of State of New York, duly authorized to accept such service on behalf of said defendant.

Sue Zouky is a white female, approximately 60 years of age, stands approximately 5 feet tall, weighs approximately 110 pounds with brown hair.


Denise Dooley

Sworn to before me
this 14th day of September, 2021.



Paula J. Cole
Notary Public, State of New York
Qualified in Albany County
No. 01CO9042570
Commission Expires Sept. 30, 2022

EXHIBIT D

STATE OF NEW YORK
SUPREME COURT :: COUNTY OF NIAGARA

NELSON NEGRON,

Plaintiff,

-against-

SGT 2000, INC., FRANZ JEAN and BERNARD
LOREN,

Defendants.

AFFIDAVIT OF SERVICE
Index No. E175141/2021STATE OF NEW YORK
COUNTY OF ALBANY SS:

Denise Dooley being duly sworn, deposes and says that she is over the age of eighteen years, is a resident of New York State and is not a party to this action.

That on the 14th day of September, 2021, at approximately the time of 12:00 p.m., at the office of Secretary of State, of the State of New York, in the City of Albany, New York, deponent served the Summons, Complaint and Notice of Electronic Filing, upon **BERNARD LOREN**, by delivering to and leaving with Sue Zouky an agent of the Secretary of State, of the State of New York, one (1) copy thereof and at the time of making such service deponent paid said Secretary of State a fee of ten dollars. That said service was made pursuant to Section 253 of the Motor Vehicle and Traffic Law.

Deponent further says that she knew the person so served as aforesaid to be the individual in the Office of the Secretary of State of New York, duly authorized to accept such service on behalf of said defendant.

Sue Zouky is a white female, approximately 60 years of age, stands approximately 5 feet tall, weighs approximately 110 pounds with brown hair.

Denise Dooley

Sworn to before me
this 14th day of September, 2021.



Paula J. Cole
Notary Public, State of New York
Qualified in Albany County
No. 01CO9042570
Commission Expires Sept. 30, 2022

EXHIBIT E

STATE OF NEW YORK
SUPREME COURT : COUNTY OF NIAGARA

NELSON NEGRON,

Plaintiff,

AFFIDAVIT OF REGULARITY

-vs-

Index No.: E175141/2021

SGT 2000, INC.,
FRANZ JEAN and
BERNARD LOREN,

Defendants.

MICHAEL J. SKONEY, being duly sworn deposes and says:

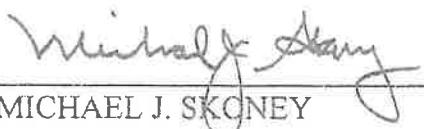
1. I am an attorney at law, licensed to practice in New York, a member of Viola, Cummings & Lindsay, LLP, Attorneys for the plaintiff, Nelson Negron.
2. My affidavit is made to show compliance with New York State Vehicle & Traffic Law § 253(2).
3. That on or about June 4, 2021, on behalf of plaintiff, we filed an action for a motor vehicle accident against:
 - i. SGT 2000, Inc.
354 Chemin Yamaska
St. Germain-de-Grantham, Quebec J0C-1K0
Canada.
 - ii. Franz Jean
1-3443 Innes Road
Ottawa, Ontario K1C-1T1.
Canada
 - iii. Bernard Loren
354 Chemin Yamaska
St. Germain-de-Grantham, Quebec J0C-1K0
Canada.

The claim involves a motor vehicle accident that occurred in Niagara Falls, New York and further involved a motor vehicle registered in the Province of Quebec, owned by SGT 2000, Inc.

4. The operators, were two employees of SGT 2000, Inc., Franz Jean and Bernard Loren.
5. In accordance with New York State Vehicle and Traffic Law § 253(1) we served a summons and complaint upon the New York State Secretary of State as agent for SGT 2000, Inc.; we also filed a separate summons and complaint upon the New York State Secretary of State as agent for both Franz Jean and Bernard Loren.
6. That on or about October 25, 2021, cover letters, with a copy of the Summons and Complaint and a copy of the affidavit of service upon the New York Secretary of State, as agent under Vehicle & Traffic Law §253(2) were sent via Registered Mail, Return Receipt to:
 - SGT 2000, Inc. at 354 Chemin Yamaska, St. Germain-de-Grantham, Quebec J0C-1K0
 - Franz Jean at 1-3443 Innes Road, Ottawa, Ontario K1C-1T1
 - Bernard Loren at 354 Chemin Yamaska, St. Germain-de-Grantham, Quebec J0C-1K0.

Copies of the cover letters are annexed collectively as Exhibit A.

7. Copies of the signed certified mail return receipts from the defendants are annexed collectively as Exhibit B.
8. This affidavit of regularity is filed with the Court to show plaintiff's compliance with New York State Vehicle & Traffic Law § 253(2).



MICHAEL J. SKONEY

Sworn to before me this 13th day of December, 2021.



Notary Public

LISA A. GODFREY
Notary Public, State of New York
Qualified in Niagara County
My Commission Expires 12/6/2024

EXHIBIT F

VIOLA, CUMMINGS & LINDSAY, LLP
ATTORNEYS & COUNSELORS AT LAW

ROBERT VIOLA
LAWRENCE LINDSAY
MICHAEL J. SKONEY
JOHN L. De FAZIO, MD
MATTHEW T. MOSHER

EDDIE A. MONTESDEOCA
THERESA L. PREZIOSO

770 Main Street
Niagara Falls, NY 14301
(716) 285-9555 PHONE
(716) 284-0379 FAX
www.vclniagara.com
General E-mail: vcllp@gmail.com

LOCKPORT OFFICE
45 Main Street
Lockport, NY 14094
(716) 433-0438 PHONE

ERIE COUNTY OFFICE
2700 Niagara Falls Blvd.
Tonawanda, NY 14150
(By appointment only)

RETIRED
WILLIAM H. CUMMINGS, JR.

October 25, 2021

Registered Mail, Return Receipt

Bernard Loren
354 Chemin Yamaska
St. Germain-de-Grantham, Quebec J0C-1K0
Canada

Re: Nelson Negron v. SGT 2000, Inc.,
Franz Jean and Bernard Loren
Niagara County Index No.: E175141/2021
Our File No.: 19-669

Dear Mr. Loren:

We are the attorneys for Nelson Negron, a resident of Niagara Falls, New York.

Enclosed with this letter is a Summons and Complaint, filed with Supreme Court, County of Niagara and a copy of the Affidavit of Service upon the New York State Secretary of State as your agent for service under Vehicle and Traffic Law § 253(1).

Please deliver this to your insurance liability carrier.

Very truly yours,

VIOLA, CUMMINGS & LINDSAY, LLP

MICHAEL J. SKONEY

MJS:lg
Enclosure

VIOLA, CUMMINGS & LINDSAY, LLP RECEIVED NYSCEF: 12/13/2021
ATTORNEYS & COUNSELORS AT LAW

ROBERT VIOLA
LAWRENCE LINDSAY
MICHAEL J. SKONEY
JOHN L. De FAZIO, MD
MATTHEW T. MOSHER

EDDIE A. MONTESDEOCA
THERESA L. PREZIOSO

770 Main Street
Niagara Falls, NY 14301
(716) 285-9555 PHONE
(716) 284-0379 FAX
www.velniagara.com
General E-mail: velliip@gmail.com

LOCKPORT OFFICE
45 Main Street
Lockport, NY 14094
(716) 433-0438 PHONE

ERIE COUNTY OFFICE
2700 Niagara Falls Blvd.
Tonawanda, NY 14150
(By appointment only)

RETIRED
WILLIAM H. CUMMINGS, JR.

October 25, 2021

Registered Mail, Return Receipt

SGT 2000, Inc.
354 Chemin Yamaska
St.-Germain-de Grantham, QUEBEC J0C-1K0
CANADA

Re: Nelson Negron v. SGT 2000, Inc.;
Franz Jean and Bernard Loren
Niagara County Index No.; E175141/2021
Our File No.: 19-669

Dear Sirs:

We are the attorneys for Nelson Negron, a resident of Niagara Falls, New York. Mr. Negron has commenced an action against your company in Supreme Court, County of Niagara in Niagara Falls, New York, USA.

Enclosed is a copy of the Summons and Complaint filed with the Niagara County Clerk and the Affidavit of Service of the Summons and Complaint upon the New York State Secretary of State upon the agent for your company, SGT 2000, Inc., under New York State Vehicle and Traffic Law § 253(1).

Very truly yours,

VIOLA, CUMMINGS & LINDSAY, LLP

MICHAEL J. SKONEY

MJS:lg
Enclosure

VIOLA, CUMMINGS & LINDSAY, LLP

ATTORNEYS & COUNSELORS AT LAW

ROBERT VIOLA
LAURENCE LINDSAY
MICHAEL J. SKONEY
JOHN L. De FAZIO, MD
MATTHEW T. MOSHER

EDDIE A. MONTESDEOCA
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(716) 433-0438 PHONE

ERIE COUNTY OFFICE
2700 Niagara Falls Blvd.
Tonawanda, NY 14250
(By appointment only)

RETIRED
WILLIAM H. CUMMINGS, JR.

October 25, 2021

Registered Mail, Return Receipt

Franz Jean
1-3443 Innes Road
Ottawa, Ontario K1C-1T1
CANADA

Re: Nelson Negron v. SGT 2000, Inc.,
Franz Jean and Bernard Loren
Niagara County Index No.: E175141/2021
Our File No.: 19-669

Dear Mr. Jean:

We are the attorneys for Nelson Negron, a resident of Niagara Falls, New York.

Enclosed with this letter is a Summons and Complaint, filed with Supreme Court, County of Niagara and a copy of the Affidavit of Service upon the New York State Secretary of State as your agent for service under Vehicle and Traffic Law § 253(1).

Please deliver this to your insurance liability carrier.

Very truly yours,

VIOLA, CUMMINGS & LINDSAY, LLP

MICHAEL J. SKONEY

MJS:lg
Enclosure

EXHIBIT G

Completed by the office of origin. (A remplir par le bureau d'origine.)	Item Description (Nature de l'envoi)	Registered Article (Envoi recommandé)	Letter (Lettre)	Printed Matter (Imprimé)	Other (Autre)	Recorded Delivery (Envoi à livraison attestée)	Express Mail International
	Insured Parcel (Colis avec valeur déclarée)	RE 355 040 529 US					
Office of Mailing (Bureau de dépôt)				Date of Posting (Date de dépôt)			
Addressee Name or Firm (Nom ou raison sociale du destinataire)							
SGT 2000, Inc.							
Street and No. (Rue et No.)							
354 Chemin Yamaska							
Place and Country (Localité et pays)							
St Germain -de- Grantham, Quebec							
<p>This receipt must be signed by: (1) the addressee; or, (2) a person authorized to sign under the regulations of the country of destination, or, (3) if those regulations so provide, by the employee of the office of destination. This signed form will be returned to the sender by the office of destination.</p> <p>(Ce avis doit être signé par le destinataire ou par une personne y autorisée en vertu des règlements du pays de destination ou si ces règlements le comportent, par l'agent du bureau de destination, et renvoyé par le premier courrier directement à l'expéditeur.)</p>							
<input type="checkbox"/> The article mentioned above was duly delivered. (L'envoi mentionné ci-dessus a été dûment livré.)				Date 275018  30-11-1981-11-30			
Signature of Addressee (Signature du destinataire)		Signature of Addressee (Signature du destinataire)		Office of Destination Employee Signature (Signature de l'agent du bureau de destination)		Office of Destination Employee Signature (Signature de l'agent du bureau de destination)	



Administration
des Postes des
Etats-Unis
d'Amérique

Par Avion



Return by the
quickest route
(air or surface
mail), a découvert
and postage free.

The sender completes and indicates the address for the return of this receipt.
(A remplir par l'expéditeur, qui indiquera son adresse pour le renvoi du présent avis.)

Name or Firm (Nom ou raison sociale)

Michael J. Skonely, Esq., Viola Cummings, Lindsay L.P.

A renvoyer par
la voie la plus
rapide (aérienne
ou de surface),
à découvert et
en franchise de
port.

Street and Number (Rue et no.)

770 Main Street
Niagara Falls, NY 14301

City, State, and ZIP + 4 (Localité et code postal)

UNITED STATES OF AMERICA

Etats-Unis d'Amérique

PS Form 2865, February 1997

Avis de réception

CN07 (Old C#)



Administration
des Postes des
Etats-Unis
d'Amérique

Return Receipt for International Mail
(Registered, Insured, Recorded Delivery, Express Mail)

Par Avion

275018
2021-11-30
BUREAU DE POSTE / POST OFFICE

Return by the
quickest route
(air or surface
mail), a découvert
and postage free.

The sender completes and indicates the address for the return of this receipt.
(A remplir par l'expéditeur, qui indiquera son adresse pour le renvoi du présent avis.)

Name or Firm (Nom ou raison sociale)

Michael J. Skonely, Esq., Viola Cummings, Lindsay L.P.

A renvoyer par
la voie la plus
rapide (aérienne
ou de surface),
à découvert et
en franchise de
port.

Street and Number (Rue et no.)

770 Main Street
Niagara Falls, NY 14301

City, State, and ZIP + 4 (Localité et code postal)

UNITED STATES OF AMERICA

Etats-Unis d'Amérique

EXHIBIT H

STATE OF NEW YORK
SUPREME COURT COUNTY OF NIAGARA

NELSON NEGRON,

Plaintiff,

-against-

SGT 2000, INC., FRANZ JEAN and BERNARD LOREN,

ANSWER

Index No E175141/2021

Defendants.

Defendants SGT 2000, INC., FRANZ JEAN and BERNARD LOREN by and through their attorneys WILSON, ELSER, MOSKOWITZ, EDELMAN & DICKER LLP as and for an answer to plaintiff's complaint here by state as follows:

1. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "1" of the complaint.
2. Defendants admit the allegations contained in paragraphs "2," "3" and "4" of the complaint.
3. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "5" and "6" of the complaint.
4. Defendants admit the allegations contained in paragraph "7" of the complaint.
5. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraphs "8" and "9" of the complaint.
6. Defendants admit the allegations contained in paragraph "7" of the complaint.
7. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "10" and "11" of the complaint and respectfully refer all questions of law to this Honorable Court.

8. Defendants deny the allegations contained in paragraph "12" of the complaint.

9. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "13" of the complaint.

10. Defendants deny the allegations contained in paragraphs "14," "15" and "16" of the complaint.

11. Defendants deny the allegations contained in paragraph "17" of the complaint and respectfully refer all questions of law to this Honorable Court.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

12. Upon information and belief, plaintiff's economic loss, if any, as specified in Section 4545 of the CPLR, was or will be replaced or indemnified, in whole or in part, from collateral sources, and this answering defendants are entitled to have this Court consider the same in determining such special damages as provided in Section 4545 of the CPLR.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

13. If the injuries and damages were sustained by the plaintiff(s) at the time and place and in the manner alleged in the Complaint, such damages and injuries are attributable, in whole or in part, to the comparative negligence of plaintiff(s), and if any damages are recoverable against the answering defendant(s), the amount of such damages shall be diminished in proportion with the comparative negligence which caused the damages.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

14. Upon information and belief, the injuries and damages alleged were caused by the culpable conduct of some third person or persons over whom answering defendants neither had nor exercised control.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE

15. That the occurrence alleged herein was spontaneous and unavoidable and created an emergency situation.

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE

16. Plaintiffs fail to mitigate, obviate, diminish or otherwise act to lessen or reduce the injuries, damages and disabilities alleged in the plaintiff's complaint.

AS AND FOR A SIXTH AFFIRMATIVE DEFENSE

17. The plaintiff's Complaint fails to state a cause of action upon which relief may be granted.

AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE

18. In the event any co-defendants or other tortfeasors settle with the plaintiff, as a result of the damages alleged in this action or if the plaintiffs discontinue against any co-defendants this answering defendants reserve their rights under General Obligations Law Section 15-108 and in general to prove any and all negligence on the part of said settling co-defendants and/or tortfeasors at a trial of this action.

AS AND FOR A EIGHTH AFFIRMATIVE DEFENSE

19. If and in the event this answering defendants are found to be liable to the plaintiffs, the answering defendants' liability is limited by the provisions of Article 16 of the CPLR.

AS AND FOR A NINTH AFFIRMATIVE DEFENSE

20. The injuries, losses and damages and occurrences alleged in the Complaint were the result of an independent and intervening and superseding cause or causes over which answering defendants had no control or right of control and in no way participated.

AS AND FOR A TENTH AFFIRMATIVE DEFENSE

21. Plaintiffs have failed to obtain personal jurisdiction over answering defendants, SGT 2000, INC., FRANZ JEAN and BERNARD LOREN.

AS AND FOR A ELEVENTH AFFIRMATIVE DEFENSE

22. While this answering defendants deny the plaintiff's allegations of negligence, liability, statutory liability, strict liability, injury and damages, if proven, they were the result of intervening and/or interceding acts of superseding negligence, liability, statutory liability, strict liability on the part of parties which this answering defendants neither control nor have the right to control, and for which acts or omissions the answering defendants are not legally responsible.

AS AND FOR A TWELFTH AFFIRMATIVE DEFENSE

23. Plaintiffs allege damages, if any, were caused in whole or in part by pre-existing medical and/or health conditions.

AS AND FOR A THIRTEENTH AFFIRMATIVE DEFENSE

24. Upon information and belief, the plaintiff's injuries, if any, were increased or caused by plaintiff's failure to use and wear seat belts at the time of the occurrence and, under the applicable laws, plaintiffs may not recover for those injuries which they would not otherwise have sustained.

AS AND FOR A FOURTEENTH AFFIRMATIVE DEFENSE

25. The instant lawsuit may not be maintained pursuant to 5102(d) of the New York State Insurance Law as the plaintiffs did not sustain serious injuries.

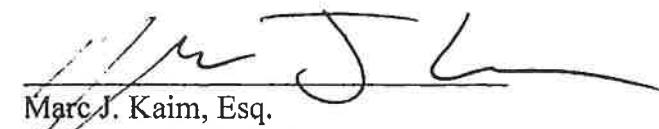
AS AND FOR A FIFTEENTH AFFIRMATIVE DEFENSE

26. The claims asserted in the Complaint are barred, in whole or in part, by the applicable statute of limitations.

WHEREFORE, defendants, demand judgment dismissing the plaintiff's complaint herein as against SGT 2000, INC., FRANZ JEAN and BERNARD LOREN, together with any other relief this Court deems just and proper.

Dated: December 21, 2021
Albany, New York

WILSON, ELSER, MOSKOWITZ, EDELMAN & DICKER, LLP



Marc J. Kaim, Esq.

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EXHIBIT I

STATE OF NEW YORK
SUPREME COURT COUNTY OF NIAGARA

NELSON NEGRON,

Plaintiffs,

-against-

SUPPLEMENTAL DEMANDS

SGT 2000, INC., FRANZ JEAN and BERNARD LOREN.

Index No: E175141/2021

Defendants.

Pursuant to CPLR 3017 (c), defendants SGT 2000, INC., FRANZ JEAN and BERNARD LOREN request that within 15 days of the date of this demand, the plaintiff serve a supplemental demand for relief setting forth the total damages to which plaintiff deems themselves entitled.

Dated: December 21, 2021
Albany, New York

WILSON, ELSER, MOSKOWITZ, EDELMAN & DICKER, LLP


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EXHIBIT J

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NIAGARA

NELSON NEGRON,

Plaintiff,

CERTIFICATE OF SERVICE

Index No.: E175141/2021

v.

SGT 2000, INC., FRANZ JEAN and BERNARD
LOREN,

Defendants.

I hereby certify that on December 21, 2021, I electronically filed the foregoing *Answer to the Complaint and Supplemental Demands*, with the Clerk of Niagara County using its ECF system, which would then electronically notify the following ECF participants on this case:

Michael J. Skoney, Esq.

mskoney@vclniagara.comDATED: Albany, New York
December 21, 2021**WILSON, ELSER, MOSKOWITZ, EDELMAN
& DICKER, LLP**

By:

s/ Marc J. Kaim

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